

MINUTES

Meeting of the Northwest Interstate Compact on Low-Level Radioactive Waste Management

April 20, 2006
Helena, Montana

Present:

Kathleen Trever, Idaho
Roy Kemp, Montana
Bill Sinclair, Utah
Larry Goldstein, Washington
Carl Anderson, Wyoming
Alice Blado, Compact Counsel
Linda Grubbs, Compact Staff
Mike Garner, Executive Director

Compact Chair, Mr. Larry Goldstein, convened the meeting at 9:00 a.m. The committee unanimously approved the minutes from the April 14, 2005 meeting.

Party State Reports

Utah

Mr. Bill Sinclair reported renewed interest in uranium due to recent price increases. A Utah mill site scheduled to be decommissioned has submitted a plan to return to operation. Mines on the Colorado Plateau that have been idle for years are reopening. This puts mills in a position to process ore, not alternate feeds (previously processed material containing uranium residuals) such as those recently going to one Utah mill. Alternate feeds consist of radioactive material that has been previously processed.

Congress passed legislation making the tailings pile at the Moab mill site a Title 1 site eligible for cleanup by the U.S. Department of Energy (DOE). A Record of Decision was made in September 2005 to move the tailings pile to a site located in Crescent Junction, Utah, thirty miles north of its current location. DOE is soliciting a contractor and expects to start moving the tailings pile in 2007. This project is anticipated to take 7-15 years to complete.

In September Private Fuel Storage (PFS) received a license from the U.S. Nuclear Regulatory Commission (NRC) for a spent nuclear fuel interim storage facility located on the Goshute Indian Reservation. Since licensing, several actions have put the project in doubt. Several members of the PFS consortium indicate they will no longer provide funding for the project. Congress designated the area through which a rail spur was proposed as a "Wilderness Area". The U.S. Bureau of Land Management is presently accepting comments on a proposed transfer site for spent fuel casks located near the interstate. This is one of the only remaining options that would enable PFS to offload spent nuclear fuel from railcars and transport it to the interim storage facility on heavy-haul trucks. Utah has filed a petition with the Washington, DC Circuit Court of Appeals requesting a review of the licensing process as the state believes NRC made several errors during the licensing process.

Idaho

Ms. Kathleen Trever reported that Governor Kempthorne has been nominated by President Bush to become the new Secretary of the Interior. If approved, the Lt. Governor of Idaho will assume the role of acting Governor until January 2007 when a newly elected governor will take office.

The Idaho National Laboratory is evaluating future disposal plans for both low-level and low-level mixed wastes generated by continuing operations at the facility. Both on-site and off-site options are being examined for disposal of an array of low-level wastes generated by Naval Reactor Operations and other research activities at the laboratory.

The Bush Administration recently announced the Global Nuclear Energy Partnership initiative. Congress and DOE asked communities and public sector partnerships to voice their interest in a spent fuel recycling facility, a new plutonium destruction reactor facility, and an advanced fuel cycle facility. A group in eastern Idaho announced its interest, as did a group in Washington State. Such a project could affect waste dynamics within the compact.

A few more companies are interested in the production of medical isotopes either through the use of the advanced test reactor, accelerators, or other processes.

Wyoming

Mr. Carl Anderson reported that Mr. Dave Finley left his position as Administrator of the Hazardous Waste Division and has taken a position with the Air Quality Division.

Montana

Mr. Roy Kemp stated Montana had nothing to report.

Washington

Mr. Goldstein indicated that he would summarize Washington issues during his presentation later in the meeting.

US Ecology Activities Overview

Mr. Tom Hayes, Vice President of US Ecology, reported the Richland disposal facility received 30,026 and 8,911 cubic feet of low-level and NARM/Exempt waste respectively in 2005. During the first quarter of 2006 the facility received 5,721 and 2,490 cubic feet of low-level and NARM/Exempt waste respectively.

In 2005 the company over collected \$1,062,000 for three of the five cost categories. These monies were rebated to the generators. However, the company under collected in the remaining two cost categories and this amount was carried forward for these categories in 2006. The annual revenue requirement for 2006 is \$5,678,275. Mr. Hayes stated that 2007 is the final year of the current Washington Utilities and Transportation Commission agreement and is uncertain what will be in place for 2008.

In response to an inquiry Mr. Hayes indicated that Class B and C low-level waste averages approximately five percent of the volume and ninety-five percent of the activity accepted annually at the Richland facility.

Utah Activities Overview

Mr. Sinclair reported a state senator proposed SB 70 to address a constitutional issue associated with the approval process for low-level waste disposal facilities. The approval process currently requires agency, county, legislative and gubernatorial approval. The senator believed the legislature should have the same ability to override a gubernatorial veto as exists with other issues. Governor Huntsman claimed the bill was an invasion of his power and vetoed the bill. The Senate voted to overturn the Governor's veto but the House never voted on the issue and the veto stood.

HB 335 would require entities seeking a stay in an administrative process to post a bond. If the stay was eventually denied the entity would forfeit its bond to cover the cost incurred by delaying the project. The bill failed.

An untitled "boxcar" bill to ban acceptance of foreign radioactive waste was proposed. This was prompted by concern over a shipment of alternate feed from Japan to the White Mesa mill. The bill was not forwarded and died.

During the upcoming interim session a work group will conduct a review for the Legislative Management Committee of the closure, post closure, and perpetual care funding for commercial waste, hazardous waste, and radioactive waste facilities. A contractor is presently preparing reports that will include a review to determine if the annual \$400,000 payment by EnergySolutions to fund perpetual care is adequate. The committee will also examine the long-term care of hazardous facilities. These reviews should be completed by October 2006.

Prior to its name change the new owners of Envirocare submitted an amendment to expand its facility into section 29, just north of the current facility. The state requires expansions beyond a current facility boundary to be evaluated in the same manner as a new facility. This involves four approval steps; agency, county, legislative, and gubernatorial. Early in the process, Governor Huntsman was questioned by the media and indicated he would not approve the proposed expansion. The expansion request was approved by the Division of Radiation Control in August 2005. The decision was appealed by the Healthy Alliance of Utah. In January 2006 the Utah Radiation Control Board heard the appeal and ruled the agency had conducted its approval process correctly.

Mr. Sinclair reported the state is pleased with the sureties in place for the EnergySolutions site as well as upgrades the new owners have implemented at the facility.

On January 31, 2006, Clean Harbors submitted a letter stating their intent to pursue a license for low-level waste disposal at its Grassy Mountain facility. Although the county indicated it would not approve the request, one of the required approvals, Clean Harbors indicated it will continue to pursue development of such a facility and plans to submit a license application to the Utah Division of Radiation Control.

EnergySolutions Activities Overview

Mr. Mark LeDoux, Corporate Radiation Safety Officer, reported that Envirocare was purchased by Lindsay Goldberg and Bessemer in 2005. In February 2006 the company name was changed to EnergySolutions. EnergySolutions is in the process of joining forces with BNG America, Scientech D&D, and Duratek. Once the mergers are completed the company will employ about 2,300

employees in 40 states. The company will focus on waste characterization, decommissioning and decontamination, transportation, radioactive waste disposal, and spent nuclear fuel transportation and reprocessing.

In 2005 EnergySolutions received 3,839,728 cubic feet of commercial waste and 18,580,776 cubic feet of DOE waste. The majority of DOE waste disposed during 2005 consisted of cleanup wastes originating at the Fernald and Rocky Flats facilities. DOE's Paducah facility will be a major waste shipper during 2006. During the first two months of 2006 the facility has received 614,334 cubic feet of commercial low-level waste and 2,742,320 cubic feet of DOE low-level waste.

Mr. LeDoux did not know when EnergySolutions would decide to submit its expansion request to the Governor. About twenty years of disposal capacity remains at the current facility. The company has made 50-60 million dollars of improvements at the waste disposal facility since it was purchased. The improvements include: paving roads, a new lift packing machine that includes software to ensure the proper lift density is achieved, a new materials shredder, construction of a new container wash facility, and construction of a new administration building.

Mr. LeDoux indicated there are no plans currently to request that South Carolina keep the Barnwell facility open to out-of-region waste past June 30, 2008.

Washington Activities Overview

Facility Investigation

Mr. Goldstein reported the purpose of the facility investigation is to collect sufficient data to select a cleanup action that will support cap design and installation. The investigation will examine all filled trenches as well as the chemical trench. Duplicate soil samples will be collected over a six month period. The duplicates will be archived in case additional analytes need to be examined should the Cleanup Priority Act (CPA) be upheld by the courts. The investigation includes the collection of groundwater samples on a quarterly basis over a two-year period.

The investigation is part of an agreed order between the facility operator and the state. Prior to the last draft the state inserted a re-opener clause; reserving its right to go back and require additional data collection should the CPA be upheld by the courts. US Ecology disagreed and the parties are working on language agreeable to both sides. We hope to be in a position to begin field work by late summer or early fall.

Sublease Renewal

Mr. Goldstein reported a new sublease for operation of the Richland disposal facility was signed in July 2005. Key components of the sublease include:

1. Initial term of ten years with four, ten-year renewal options
2. A new clause allows the state to terminate the sublease should compacts lose their exclusionary authority
3. Annual insurance coverage was increased from one million to twenty million dollars.

Cleanup Priority Act

Mr. Goldstein reported the purpose of the initiative adopted in November 2004 was to restrict acceptance of additional mixed waste or hazardous wastes by facilities not in complete compliance

with federal/state RCRA/CERCLA cleanup requirements. The Department of Justice (DOJ) challenged the initiative based on its perceived violations of the supremacy and interstate commerce clauses. DOJ also alleged the initiative placed an illegal tax on Hanford. A stipulation is currently in place that prevents the state from implementing the Cleanup Priority Act (CPA).

The CPA includes an exemption to enable the state of Washington to fulfill its host-state obligations to the Northwest Compact. However, other parts of the CPA may apply to the Richland commercial disposal facility if there has been a release of hazardous substances.

The CPA stipulates that any cleanup at a mixed waste facility needs to be in accordance with the states' Model Toxics Control Act. This would include risk-based standards for radioisotopes, instead of the dose based standards provided by federal regulations.

In the spring of 2005 the Washington State Supreme Court heard oral arguments regarding certain definitions and provisions contained within the CPA. The court examined the definition of mixed waste, inter-site transfer of mixed waste, scope of the naval facility exemption, definition of the characterization of waste, and the severability clause. The court rendered its decision in July 2005 and it determined the CPA expands the definition of mixed waste currently found in state law. It also determined there are some wastes generated by naval facilities that would not be covered by the exemption provided within the CPA.

The Washington State Department of Ecology's (Ecology) initial request for \$5 million to implement the CPA was rejected by the legislature. During the 2006 session, the legislature approved Ecology's supplemental budget request of \$2.4 million. This includes \$1.2 million for public participation grants and a little more than \$500,000 for legal expenses.

Oral arguments will be heard before Judge MacDonald in the Eastern District Federal Court on May 23, 2006. The state anticipates a decision by mid-summer.

Environmental Impact Statement -Preferred Alternatives

Ms. Nancy Darling reported there were three preferred alternatives identified by final EIS for the Richland commercial low-level waste disposal facility that was completed about a year and a half ago.

On October 20, 2005 the Washington State Department of Health (Health) issued US Ecology a new license that included new operating requirements. The new operating requirements include:

- Source term limits have been established for eight radioisotopes of concern identified by the risk assessment. These include radium 226, Iodine 129, Technecium 99, Uranium 234 and 238, Carbon 14, Plutonium 239 and tritium (H3). These radioisotopes cannot exceed the source term established as a result of the findings of the risk assessment.
- All radioisotopes of concern, except radium 226, will require secondary containment. Radium 226 was excluded because, unlike the other seven radioisotopes, it migrates upward in the form of radon gas. US Ecology asked that Health identify a means of secondary containment that did not require the generator to place the waste shipment in secondary containment prior to shipment to the disposal facility. US Ecology conducted a demonstration whereby B-25 boxes and drums are placed in steel containers that once full

are welded shut. Ms. Darling estimates that ninety-eight percent of the activity received at the facility will be placed in secondary containment.

- Radium 226 will be buried at a minimum depth of twenty-three feet to minimize dose under the “inadvertent intruder” scenario. This should almost eliminate any dose from future disposal of discrete radium.
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- Implements a “close as you go” requirement. The forty acres of filled trenches will be closed and then future trenches will be closed as they are filled with waste.

The second action involves establishment of annual volume limits for diffuse NARM. Health adopted a rule in October of 2005 setting the annual diffuse NARM disposal limit at 100,000 cubic feet. It provides for rollover of non-used disposal volume on a case-by-case basis. Because of the CPA and the current court case Health extended the effective date of the rule to August 15, 2006. Health is hopeful the court will make its ruling in time to allow rule adoption to go forward as currently scheduled.

The third action involves closure of filled trenches at the facility. US Ecology went through a comprehensive selection process to identify a contractor to design the cover. D.B Stevens of Albuquerque, New Mexico has been selected as they have extensive experience constructing evapotranspiration covers. An evapotranspiration cover requires a lot of fine soil in the top layer of the cover and these soils are not present at the disposal facility. DOE has hundreds of thousands of cubic feet of these types of soil and Health is currently negotiating with DOE for a borrow site. Soils at the borrow site will be tested and Health hopes to have testing completed by early summer. The design is scheduled to be completed by December 2006 and construction would then start in 2007.

Ms. Darling explained that the delay of the facility investigation is a concern because of the schedule for cover construction. Construction was originally scheduled to begin in 2006. The risk assessment was premised on this start date and may have to be reworked if the trenches stay open much longer. This is why Health is pushing hard to begin cover construction in 2007. Health and Ecology have come up with a way to construct the cover without impeding the investigation. During the investigation Health will collect samples focusing on the radioisotopes of concern, those anticipated to contribute to the dose. These findings will be used to further refine the risk assessment.

In response to a question regarding monitoring the performance of the cover Ms. Darling indicated that D.B. Stevens has done some interesting things with lysimeters being incorporated into the cover. The cover includes an impermeable barrier that will enable the lysimeters to be incorporated into the cover.

In response to a question regarding the borrowing of Closure Funds by the state of Washington Mr. Goldstein reported these funds are scheduled to be paid back with interest over the twenty-five year period of 2008 to 2033.

Clean Harbors Deer Trail Facility

Mr. Leonard Slosky, Executive Director of the Rocky Mountain Compact (RMC), reported the Deer Trail facility was permitted as a Subtitle C facility a number of years ago but it has not received

much waste. The facility is located about seventy miles east of Denver in a fairly arid area that is sparsely populated. In January 2005 Clean Harbors filed a license application for acceptance of radium waste as well as a RCRA permit modification with the Colorado Department of Health. In April 2005 Colorado applied to the RMC Board requesting the Clean Harbors facility be designated as a regional facility for acceptance of radium waste. Under the rules of the RMC only a state may apply to have a facility designated as a regional facility. The RMC Board held hearings on May 27 and June 8 of 2005. At the June 8 hearing the Board designated the facility as a regional facility for acceptance of radium waste. In December 2005 the state of Colorado issued a radioactive materials license to the Clean Harbors Deer Trail facility. Through the end of March 2006 the facility had not received any radium wastes.

Early in April 2006, the RMC Board received a request from Colorado to amend the designation of the facility to allow acceptance of Naturally Occurring and Accelerator Produced Radioactive Material (NARM) and Technologically Enhanced Naturally Occurring Radioactive Material (TENORM) up to the license limits, 2,000 picocuries per gram total and 400 picocuries per gram of radium. Uranium and thorium concentrations must be less than the definition of "source material". The Board is scheduled to consider this request at its May 9, 2006 meeting. If the amended designation is approved by the RMC Board the facility would be authorized to accept NARM and TENORM wastes in addition to radium wastes.

Adams County, the county in which the Deer Trails facility is located, filed two lawsuits challenging the state licensing and permitting process. The state filed motions requesting that the court dismiss the suits. The county contends Colorado did not obtain authorization from the county to change the facility from one that accepts hazardous waste to one that may also accept radioactive waste.

Mr. Slosky stated drinking water residuals were a new issue coming forth from the member states of the RMC. Some states believe these wastes can be safely disposed in county landfills, which is contrary to existing compact regulations. A task force is looking at this issue and is collecting data from a number of generators on the types and volumes of waste involved. Efforts to meet U.S. Environmental Protection Agency drinking water standards are requiring the removal of radioisotopes from drinking water supplies. To date, these wastes streams have contained a fair amount of uranium and thorium.

Mr. Slosky also reported there is a proposal in New Mexico to construct a private Uranium Enrichment Facility. The facility is nearing the end of its licensing process and will be in position to receive its license near the end of the year. The operation will generate large quantities of waste, increasing waste generation within the RMC Compact by orders of magnitude. The U.S. Nuclear Regulatory Commission has ruled that depleted uranium is low-level waste. This is a very political and complicated issue. The RMC Board has informed the proposed operator that the compact has certain requirements regarding waste disposal within the compact as well as export requirements.

When asked what type of volumes that the Deer Trails facility is expected to accept Mr. Slosky stated the facility anticipates accepting 180,000 cubic yards of material over a five year period. It is estimated that the in-region waste stream will be relatively small. The majority of the volume will be out-of-region waste that is subject to the RMC's import requirements.

Asked to explain why drinking water residuals were at odds with current compact law Mr. Slosky

reported Colorado has taken a position that the resulting wastes can be managed adequately at county Subtitle D landfills or special waste industrial landfills that are not hazardous or radioactive permitted landfills. The RMC statutes state low-level waste may only be disposed at a designated regional facility. Colorado would like the RMC to consider some type of exemption for drinking water residuals. A task force has been formed to examine the issue. Once data collection is completed the RMC Board will examine the data and determine if it is appropriate to initiate a rulemaking to allow alternate disposal. There is some precedent in that about five years ago oil/gas companies asked the RMC Board for approval to replace NORM waste down the boreholes without making each borehole a regional facility. The RMC Board completed a rulemaking allowing producers to put their own waste back down the borehole.

Ms. Trever reported Idaho is also dealing with the drinking water residual issue. There is uranium in the drinking water and Idaho expects this to be an issue regarding waste generation from the filtration systems used to lower the uranium levels. Is there anything in the Northwest Compact statutes similar to the RMC? No.

When asked a question regarding potential approval of the NARM/TENORM request Mr. Slosky indicated approval would be based on two criteria.

1. Would it have an adverse impact on the existing regional facility? There is sufficient capacity available so this should not be a concern.
2. Would it serve the needs of the region for a reasonable number of years? It is a large facility that is currently permitted to receive 500,000 cubic yards of waste.

Summary of National Issues

Mr. Garner reported the Texas Commission on Environmental Quality (TCEQ) issued its first notice of deficiency (NOD) to Waste Control Specialists (WCS) in September 2005. WCS had seventy-five days to respond. A second NOD was issued in January 2006 and gave WCS sixty days to respond. TCEQ is hopeful it will be in a position to either approve or deny the license application by late 2007 or early 2008. This could have a significant impact on the national process as it would be the first new compact site developed.

The Texas facility is designed to be two distinct facilities. One will accept waste from the compact states of Texas and Vermont. A second disposal facility will accept U.S. Department of Energy (DOE) waste from facilities throughout the country. Texas allowed incorporation of the DOE facility to help ensure the economic viability of the disposal facility.

The Barnwell, South Carolina facility is scheduled to stop accepting out-of-region waste beginning July 1, 2008. If this occurs thirty-six states could be without Class B and C access. It is estimated these thirty-six states generate approximately 16-20,000 cubic feet of Class B and C wastes annually and this volume of waste can be safely stored. The lack of access could put additional pressure on the Policy Amendments Act and staff will monitor this situation closely.

Some groups, such as the Health Physics Society, are calling for a complete overhaul of the current system. The groups contend the lack of competition results in excessively high disposal costs impeding the use of nuclear technologies. They maintain waste classifications and disposal requirements should be based on inherent risk to the public and not waste origins or legislative statutes. They have recommended that all non-DOE waste generators should be provided access to all operating commercial disposal facilities. This would put these facilities in a position of having to accept waste from states throughout the nation. Some have suggested that commercial waste

generators be provided access to DOE disposal facilities. The Advisory Committee on Nuclear Waste (ACNW) will be reviewing the regulations, specifically looking at management based on inherent risk; not where, when, or how the waste was generated. ACNW has indicated it wants to ensure their actions do not create any unintended consequences. The ACNW is holding a working group meeting in the Washington DC area on May 23-24. Mr. Sinclair will be representing the Low-Level Radioactive Waste Forum (LLWF) at this meeting.

A good example of an unintended consequence is prior legislation proposed by Senator Clinton addressing materials like radium 226 contained within sealed sources that could be used to construct "dirty bombs". The bill sought to bring materials like radium 226 under the regulatory authority of the NRC. By doing so these materials would then be classified as low-level waste and if generated outside of the Northwest and Rocky Mountain Compacts would no longer be eligible for disposal at the Richland, Washington facility; the only disposal facility capable of accepting certain sealed sources. The LLWF drafted comments and the bill was eventually modified preserving the disposal pathway.

The LLWF has recommended that any party making recommendations to amend the current law involve the LLWF to ensure there are not unintended consequences resulting from their proposals. This will give individual compacts, each with its own distinct set of rules, the opportunity to review the proposal.

The LLWF has developed a "Discussion of Issues" paper that includes a list of issues that need to be evaluated by those recommending changes to the current system. The paper also points out the following:

1. Commercial low-level waste is well regulated and managed safely.
2. There is no immediate crisis as all states currently have access for disposal of all classes of low-level waste.
3. The Policy Amendments Act is flexible and can accommodate a number of options; such as establishment of access to the EnergySolutions facility in Utah.
4. States and compacts must work to find solutions to all disposal needs.

The Discussion of Issues paper also states that those evaluating potential changes need to consider the political realities, economic consequences and regulatory concerns of their proposals. Many do not realize what is involved with establishment of new sites on federal facilities. First, these facilities are located in states. Second, state citizens do not understand why a host state should consider allowing new wastes to come to a federal facility until cleanup of legacy waste is completed.

The Southeast Compact, Rocky Mountain Compact Board, National Energy Institute, and Health Physics Society will be co-sponsoring a workshop near the end of May to discuss the use of federal facilities. Parties hope to discuss the full spectrum of issues associated with the proposed use of federal disposal facilities for commercial waste disposal.

Some groups occasionally state that no new facilities have been developed since the Policy Amendments Act was adopted. This is not the case as Envirocare, now EnergySolutions, came on line and it could be the only facility available to thirty-six states for disposal of Class A waste should the Barnwell facility stop accepting out-of-region waste as currently scheduled.

Groups recommending opening up existing commercial disposal facilities to all states for disposal

of commercial low-level waste are not aware of the new termination clause in the new sublease between the state of Washington and US Ecology. It allows the state of Washington to terminate the sublease should compacts lose the authority to deny access to out-of-region waste.

Staff will monitor activities in these areas closely during the next 4-5 years.

Committee Business

Mr. Garner reported the need to update the Second Amended Resolution and Order (R&O). This is primarily an administrative action as the recommended changes will incorporate Envirocare's new name, EnergySolutions, and will alter the monthly reporting requirements that have been in place since the original resolution and order was adopted. At that time the R&O provided access to the region to large volume, low activity wastes. It did not include all Class A waste. The report provided information that allowed review of the waste streams accepted to ensure compliance with the intent of the R&O and its operating license.

Mr. Garner recommended that the reporting requirement be modified. The summary section would be continued, but the waste form, waste kind, and detail sheets could be discontinued, now that EnergySolutions accepts most Class A waste. A section would be added to address waste originating within the Northwest Compact, such as DOE waste or mixed low-level waste. A recent review of the DOE MIMS system showed that between 1998 and 2005 there were fifty cases where Envirocare reported accepting in-region low-level waste. Following a review by EnergySolutions these were all wastes that did not require compact authorization prior to being shipped for disposal, such as DOE waste or mixed waste. A portion consisted of mixed waste with a characteristic hazard. Once the characteristic waste is treated the waste is disposed of as low-level waste.

The initial draft recommended the following language be added to address these types of waste.

“EnergySolutions shall add a section for in-region low-level radioactive waste reported to the U.S. Department of Energy's Manifest Information Management System. This section shall contain information showing why compact authorization was not required prior to receiving in-region low-level radioactive waste.”

This provides the information necessary to allow staff to respond to inquiries as to why the Northwest Compact is authorizing in-region low-level waste to be disposed at EnergySolutions. The initial draft was submitted to Mr. Sinclair and Mr. Tye Rogers, Vice President-EnergySolutions, for review. Neither individual had an issue with the proposed changes. The draft was then circulated to committee members and US Ecology for review.

US Ecology recommended the following change to the last sentence of section 6.

“This section shall contain information documenting why compact authorization was not required prior to receipt of in-region low-level radioactive waste based on its classification as mixed waste or U.S. Department of Energy waste.”

This recommendation was then distributed to committee members and Mr. Rogers. No one had concerns with the recommended change to the original draft. Mr. Garner asked if these classifications capture all of the cases that EnergySolutions reports to the MIMS system as low-level radioactive waste.

Mr. Sinclair recommended broadening the classifications. For example there are three types of mixed waste accepted by the facility; mixed RCRA waste, mixed PCB waste, and mixed NORM waste. These specifics do not need to be included if committee members understand what the term

“mixed waste” represents. Mr. Sinclair recommended including NORM waste and mill tailings waste as he believes these wastes may have been reported to the MIMS system in the past. Mr. Sinclair stated that when you are dealing with the volumes of waste that EnergySolutions accepts there are bound to be occasional mistakes. These changes should capture everything.

The amended sentence would now read, “ This section shall contain information documenting why compact authorization was not required prior to receipt of in-region low-level waste based on its classification as mixed waste, NARM waste, uranium mill tailings (11e(2)), or U.S. Department of Energy waste.

Ms. Trever forwarded a motion to adopt the amendments to the Second Amended Resolution and Order provided in our meeting packet and further amended as just read. Mr. Anderson seconded the motion. The committee unanimously approved the motion to adopt the amendments to the Second Amended Resolution and Order.

Ms. Trever asked Mr. Sinclair if there was information he needed from committee members in preparation for his May meetings in Washington DC. Mr. Sinclair responded that any information regarding regulatory issues associated with federal facilities from a state perspective would be appreciated. For example, how difficult is it to apply state regulatory authorities to federal facilities?

Mr. Garner raised a point regarding the various proposals that would provide alternate disposal options for low activity wastes. It is important to understand that if implemented this could impact the economic viability of existing facilities. If certain wastes that historically were disposed at low-level waste disposal facilities were reclassified allowing alternate disposal it could result in decreased waste volumes for the Richland facility. Or, if reclassified, out-of-region waste previously classified as low-level waste may gain access to the Richland facility.

The committee determined that it would hold its next meeting in Jackson, Wyoming. The meeting is scheduled to be held between late April and the middle of May 2007 depending on the schedules of committee members.

Mr. Sinclair made a motion that letters of appreciation be sent to David Stewart-Smith, Lilia Lopez, and Donna Baldonado. Mr. Kemp seconded the motion and the committee unanimously approved the motion.

Public Comment

No public comment was received.

The meeting was adjourned.



Northwest Interstate Compact

On Low-Level Radioactive Waste Management

P.O. Box 47600. Olympia, Washington 98504-7600. (360) 407-7102. Mike Garner, Executive Director

THIRD AMENDED RESOLUTION AND ORDER

Whereas, the Compact Committee continues to support the Low-Level Radioactive Waste Policy Amendments Act, Public Law 99-240;

Whereas, the State of Utah has licensed EnergySolutions as a low-level radioactive waste disposal facility;

Whereas, the EnergySolutions facility in Clive, Utah, serves an important national purpose in accepting certain types of low-level radioactive waste for treatment and disposal;

Whereas, allowing certain low-level radioactive waste access to the licensed EnergySolutions facility should not be construed to diminish the Compact Committee's support for Public Law 99-240;

Whereas, since allowing access to the EnergySolutions facility, as restricted by the radioactive materials license issued by the State of Utah, will not resolve continued uncertainties about national capacity for the disposal of low-level radioactive waste, the Compact Committee urges other compacts and unaffiliated states to provide disposal capacity for such waste;

Whereas, no facility located in any party state may accept low-level waste generated outside the region comprised of the party states except as may be agreed to under Articles IV and V of the Compact statute; and

Whereas, the Compact Committee has been asked by the State of Utah to allow access to EnergySolutions for certain low-level radioactive wastes;

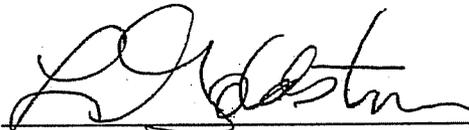
BE IT HEREBY RESOLVED AND ORDERED THAT:

1. Low-level radioactive mixed waste, as defined in federal and/or state law is allowed access to the EnergySolutions facility in the Northwest Interstate Compact region.
2. Low-level radioactive waste (as defined in Public Law 99-240) as allowed under, and regulated by the terms of, the radioactive materials license of EnergySolutions as determined by the State of Utah, is allowed access to the EnergySolutions facility in the Northwest Interstate Compact region.
3. While the Compact allows the above described wastes access to the licensed EnergySolutions facility in the Northwest Interstate Compact region, in accordance with Article V of the Compact, Utah retains the right to specifically approve each disposal arrangement before the waste is allowed access to the licensed EnergySolutions facility.

4. All federal and state environmental and other laws and regulations shall be complied with by the licensed EnergySolutions facility accepting the above referenced media or waste for treatment, storage, or disposal. The Compact has no authority and assumes no responsibility for the licensing and operation of the EnergySolutions facility.

5. It is the intent of the Committee that only those wastes approved by the compact of origin (including the Northwest Compact) be allowed. For states unaffiliated with a compact, state approval for export is required to the extent states can exercise such approval. This Resolution and Order shall constitute an arrangement under Article V of the Compact statute with any unaffiliated state or compact that approves waste for export to the EnergySolutions facility.
6. The licensed EnergySolutions facility accepting any of the above described low-level radioactive wastes shall provide monthly to the Compact Executive Director a record of all shipments to include generator name, state of generation, total waste volume, and average concentration of each such shipment. EnergySolutions shall add a section for in-region low-level radioactive waste reported to the U.S. Department of Energy's Manifest Information Management System. This section shall contain information documenting that compact authorization was not required prior to receipt of in-region low-level radioactive waste based on its classification as mixed waste, U.S. Department of Energy waste, Naturally Occurring or Accelerator Produced Material (NARM), or uranium mill tailings (11e.(2) byproduct material).
7. The Northwest Interstate Compact retains the right to modify or rescind this authorization at any time. The Compact Executive Director shall monitor progress of other compacts and states in siting low-level radioactive waste disposal facilities under Public Law 99-240. At three-year intervals, the Compact Committee shall evaluate such progress with regard to access to the EnergySolutions facility.

As approved by the Northwest Interstate Compact on Low-Level Radioactive Waste Management, I execute this revised Resolution and Order on the 1ST day of May 2006.



Lawrence Goldstein, Chair
Northwest Interstate Compact on
Low-Level Radioactive Waste Management